

Senate Judiciary Committee Amendment No. 3, as amended; (by Haynes)

Amendment No. 1 to SB2606

**Person
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2606

House Bill No. 2464*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 2, Part 7, is amended
by adding the following language as a new, appropriately designated section:

Section 47-2-7__

(a) After receiving notice of written demand via certified mail, return receipt requested, correctly setting forth the amount due as well as the creditor's name and address and the circumstances under which attorneys' fees may be awarded pursuant to this section, a debtor who fails to pay an open account, for the sale of goods, one hundred twenty (120) days or more delinquent may be liable, in the sole discretion of the court, for attorneys' fees in an amount not to exceed twenty percent (20%) of the amount of such debt. Such attorneys' fees may be awarded only after judgment is rendered against the debtor.

(b) For purposes of this section, "open account" means any account due and owing to a creditor that is not a revolving or installment contract.

SECTION 2. Tennessee Code Annotated, Title 29, Chapter 1, is amended by
adding the following language as a new, appropriately designated section:

Section 29-1-1__

(a) After receiving notice of written demand via certified mail, return receipt requested, correctly setting forth the amount due as well as name and address of the creditor and the circumstances under which attorneys' fees may be awarded pursuant to this section, a debtor who fails to pay an open account, for services other than medical or hospital or health care services, one hundred twenty (120)

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days or more delinquent may be liable, in the sole discretion of the court, for attorneys' fees in an amount not to exceed twenty percent (20%) of the amount of such debt. Such attorneys' fees may be awarded only after judgment is rendered against the debtor.

(b) For purposes of this section, "open account" means any account due and owing to a creditor that is not a revolving or installment contract.

SECTION 3. This act shall take effect on July 1, 2002, the public welfare requiring it, and shall apply to debts incurred on or after such date.

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Senate Judiciary Committee Amendment No. 3: rewrites the bill. Attorneys' fees could, in the discretion of the court, be awarded with regard to the collection of open accounts **IF** **the following conditions are all met:** (1) The debtor receives notice of written demand for payment; (2) Such written demand is sent via certified mail, return receipt requested; (3) Such written demand correctly sets forth the amount due, the creditor's name and address, and the circumstances under which attorneys' fees may be awarded; (4) The open account does not involve debt pertaining to hospital, medical or health care services; (5) The debt is one hundred twenty (120) days or more delinquent; (6) Judgment is rendered against the debtor; and (7) The fees awarded by the court do not exceed 20% of the amount of such debt.